

PT 97-5

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

NORTHERN ILLINOIS MEDICAL)	
CENTER FOUNDATION)	Docket No. 92-56-91
)	PINS: 14-02-301-014
)	14-02-301-015
v.)	14-02-301-016
)	14-02-301-017
)	14-02-301-018
THE DEPARTMENT OF REVENUE)	John E. White
OF THE STATE OF ILLINOIS)	Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearance: Robert Best, Bell Boyd & Lloyd, for applicant, Northern Illinois Medical Foundation.

Synopsis:

This matter involves an application for property tax exemption for five parcels of real property situated in McHenry County, Illinois. The parcels are owned by the applicant, Northern Illinois Medical Foundation ("Foundation" or "applicant"). The Illinois Department of Revenue ("Department") denied the application, and the Foundation protested that denial.

A hearing on applicant's protest was held at the Department's Office of Administrative Hearings. At hearing, the Foundation presented evidence consisting of its books and records, and the testimony of its executive director. I am including in the recommendation findings of fact and conclusions of law. I recommend the application be granted.

Findings of Fact:

1. During the period at issue, title to the parcels was held by the Foundation. Application for Property Tax Exemption To Board of Review -- Statement of Facts ("Application"), Part I; Applicant Ex. No. 2.
2. The Foundation's application was for a partial year exemption. Application, Parts I, VI.

3. The parcels of real estate at issue were improved with a one story, brick administrative office building covering approximate 4,000 sq. ft., and a parking lot. Application, Part III; Tr. p. 27.
4. On January 31, 1992, the Department issued sales tax exemption no. E9980-5707-02 to the Foundation after determining the Foundation was organized and operated exclusively for charitable purposes. Applicant Ex. No. 8 (also included as an attachment to the Application).
5. The building and lot were used by personnel of the Foundation and of Northern Illinois Medical Center ("NIMC") for their Accounting, Finance and Home Health Care offices. Application, Part III; Tr. pp. 20-23.
6. The Home Health Care staff had approximately 50 employees in 1992. Tr. pp. 21-22. The employees included licensed registered nurses, nurses aides, licensed social workers, rehabilitation therapists, including physical therapists, occupational therapists and speech therapists. Applicant Ex. No. 10; Tr. pp. 21-22. The staff used the property to store medical supplies, and as the administrative offices of the Home Health Care unit. Tr. pp. 21-22. The staff picked up supplies at the offices on the property, then visited patients at their homes to administer medicines and/or to otherwise monitor or provide care to home-bound patients. Applicant Ex. No. 10; Tr. pp. 21-22.
7. The Foundation did not charge rent to NIMC for its staffs' use of the property at issue. Applicant Ex. 9 (Consolidated Financial Statements of Northern Illinois Human Services Corp. & Subsidiaries), p. 11 (Notes to Financial Statements).
8. NIMC operated an acute care hospital on land situated near the parcels identified in the application here. Applicant Ex. No. 1; Tr. pp. 25-6.

9. During 1992 (and beyond), NIMC had also been issued a sales tax exemption number as an exclusively charitable organization, and the property on which NIMC operated its non-profit hospital was exempt from property tax.¹
10. The Foundation's application in this matter was granted by the McHenry County Board of Review. Application, Part VI.
11. The Department denied the Foundation's application for exemption of the parcels for the following reason:
- LACK OF JURISDICTION -- FAILURE TO COMPLY WITH ILLINOIS
REVISED STATUTES CHAPTER 120 PAR. 589.
- Denial of Application for Property Tax Exemption ("Denial"), dated January 28, 1993.
12. Prior to hearing following the Foundation's protest of the Department's denial, the Foundation notified the affected municipalities, school districts and community college districts of its application for exemption regarding the parcels, as well as notifying those entities of the hearing date, time and location. See Applicant Ex. No. 4, Hearing Transcript ("Tr."), pp. 7-10.

Conclusions of Law:

Section 19.7 of the Revenue Act of 1939 exempted from real property taxation:

All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States

Ill. Rev. Stat. ch. 120, ¶ 500.7 (1991).

As a statutory provision exempting property from taxation, section 19.7 must be strictly construed in favor of taxation. Chicago Patrolmen's Association v. Department of Revenue, 171 Ill. 2d 263, 271 (1996). The burden of establishing the right to the exemption is on the one claiming the exemption.

¹. I take official notice of this fact. See 35 **ILCS** 120/1h; see also Department of Revenue v. Northern Illinois Medical Center Foundation, Docket No. 89-56-11 (Administrative Decision rendered in 1991, findings of fact on pp. 2-3).

MacMurray College v. Wright, 38 Ill. 2d 272 (1967). All debatable questions should be resolved in favor of taxation. Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430, 434 (1st Dist. 1987).

The Department denied the Foundation's application for property tax exemption because it failed to notify affected municipalities and schools and community college districts of the application for exemption, prior to the hearing at the county Board of Review. The Department later determined that the Foundation's failure to notify the affected entities prior to the county hearing had no jurisdictional effect on the Department's ability to pass on the board of review's determination of the Foundation's application. Ill. Rev. Stat. ch. 120, ¶ 589(6) (1991); Andrews v. Foxworthy, 71 Ill. 2d 13, 21 (1978) (distinguishing directory and mandatory statutory provisions). Applicant, moreover, subsequently gave the affected taxing bodies notice of its application and of the hearing to be held regarding the Department's denial of the application.

In property tax matters, Illinois courts use the same criteria to determine whether an entity is an exclusively charitable organization. Wyndemere Retirement Community v. Department of Revenue, 274 Ill. App. 3d 455, 459 (2d Dist. 1995); see also, Chicago Patrolmen's Association v. Department of Revenue, 171 Ill. 2d 263, 271 (1996) (affirming determination that association was not exclusively charitable because it did not satisfy certain criteria). Those criteria, first articulated by the Illinois Supreme Court in Methodist Old Peoples Home v. Korzen, 39 Ill. 2d 149, 156-57 (1968), are:

1. Whether the benefits taxpayer provides are for an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare, or which, in some way, reduces the burdens on government;
2. Whether taxpayer's organization has any indices of a for-profit structure, such as capital, stock, or shareholders;
3. Whether taxpayer derives its funds mainly from private and public charity, with the funds held in trust for the objects and purposes expressed in taxpayer's corporate charter;

4. Whether the charity is dispensed to all who need and apply for it, without providing gain or profit in a private sense to anyone connected with taxpayer;

5. Whether taxpayer places any obstacles in the way of those seeking benefits from it;

6. The term "exclusively used" means the primary purpose for which the property is used [or for which the organization's benefits are provided] and not any secondary or incidental purpose.

Methodist Old Peoples Home v. Korzen, 39 Ill. 2d at 156-57; DuPage County Board of Review v. Joint Commission on Accreditation of Healthcare Organizations, 214 Ill. App. 3d 461, 468 (1st Dist. 1991) (Methodist Old Peoples Home criteria to be used as guidelines, not benchmarks; each need not be "proved" before charitable status is recognized).

Generally, the first five Methodist Old Peoples Home criteria are used to determine whether the entity claiming the exemption is, itself, an exclusively charitable organization. The last criteria is relevant when determining whether the property is being used exclusively for charitable purposes. I have reviewed the books and records applicant offered as evidence at hearing, and I find that those documents clearly satisfy the Foundation's burden to show that it met the first five Methodist Old Peoples Home criteria. Applicant Ex. Nos. 1-9; see also, Department of Revenue v. Northern Illinois Medical Center Foundation, Docket No. 89-56-11 (1991). Therefore, I conclude, as the Department already has, that applicant was organized and operated as an exclusively charitable organization.

A conclusion that an applicant is an exclusively charitable organization, however, is not determinative of whether the property at issue was used primarily for charitable purposes during the applicable tax year. Clark v. Marion Park, Inc., 80 Ill. App. 3d 1010 (2d Dist. 1980). Here, the evidence offered at hearing was that half of the building situated on the property was used as offices for non-medical support staff of the Foundation's affiliate, NIMC. Tr. pp. 19-20; Applicant Ex. 9 (Consolidated Financial Statements of Northern Illinois Human Services Corp. & Subsidiaries), p. 7 (Notes to

Consolidated Financial Statements). The other half of the building was used as the offices of the Home Health Agency unit of NIMC.

NIMC was also an exclusively charitable organization, which operated a non-profit hospital located near the parcels at issue. Tr. pp. 5-6; Applicant Ex. No. 1. The Foundation did not charge rent to NIMC for its use of the building. In Evangelical Hospital Association v. Novak, 125 Ill. App. 3d 439 (2d Dist. 1984), the Illinois appellate court found property used as offices for administrative and support staff of a charitable hospital was entitled to a property tax exemption. In Northwestern Memorial Foundation v. Johnson, 141 Ill. App. 3d 309 (1st Dist. 1986), the court found that a hospital employee parking lot was entitled to a charitable exemption.

Based on the evidence, I conclude that NIMC's staffs' use of Foundation property was reasonably necessary to the accomplishment of the charitable operations of the hospital. Memorial Child Care v. Department of Revenue, 238 Ill. App. 3d 985, 991 (4th Dist. 1992). Therefore, I recommend the Director grant the application for partial year exemption.

JACK WHITE
ADMINISTRATIVE LAW JUDGE